

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Elizabeth Brown,
Plaintiff,) C.A. No.: 8:10-cv-02434-RBH
vs.)
Commissioner of Social Security)
Administration,)
Defendant.)

ORDER

Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) to obtain judicial review of a final decision of the Commissioner of Social Security, denying her claim for disability insurance benefits. This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not

required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310 (4th Cir. 2005) stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted as modified¹ and incorporated by reference. Therefore, it is

ORDERED that, based upon the Commissioner’s unopposed motion to remand, the Commissioner’s motion is granted and the case is remanded to the Commissioner for further administrative action. Upon remand, the Agency will consider the additional medical opinion evidence Plaintiff submitted before the Appeals Council issued its unfavorable decision pursuant to 20 C.F.R. § 404.1527 and Social Security Rulings 96-2p and 96-5p and will explain the weight given to such opinion evidence.

¹ The undersigned has modified the R & R of the Magistrate Judge to include information as to what additional evidence will be reviewed upon remand to the Commissioner. The information regarding this additional medical opinion evidence was referenced in the Commissioner’s [Docket Entry 15-1] Memorandum in Support of the Motion to Remand.

IT IS SO ORDERED.

s/R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
May 24, 2011